

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

IN RE: FUTURE MOTION, INC.
PRODUCTS LIABILITY LITIGATION

No.: 23-md-03087-BLF

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' PROPOSED
ORGANIZATION AND LEADERSHIP
APPOINTMENTS**

This document relates to:

ALL ACTIONS

Pending before the Court is Personal injury/wrongful death Plaintiffs' ("PIWD Plaintiffs") Proposed Organization and Leadership Appointments. Upon review of PIWD Plaintiffs' proposed leadership structure, any objections thereto, and any oral arguments, if any, the court determines that PIWD Plaintiffs' Proposal should be GRANTED.

IT IS SO ORDERED THAT

The organization of PIWD Plaintiffs' leadership and the members thereof are as follows:

I. PIWD Plaintiffs' Co-Lead Counsel

A. Appointment. Robert W. Cowan of Bailey Cowan Heckaman PLLC and Rene F. Rocha of Morgan & Morgan shall serve as PIWD Plaintiffs' Co-Lead Counsel.

B. Responsibilities of PIWD Plaintiffs' Co-Lead Counsel. Messrs. Cowan and Rocha, as Plaintiffs' Co-Lead Counsel, shall have the following duties and responsibilities:

1. Serve as liaison with the Court for all PIWD Plaintiffs during these coordinated pretrial proceedings in response to any inquiries by the Court or opposing counsel, subject to the right of any plaintiff's counsel to present non-repetitive individual or different positions, as long as the presentation does not unduly delay the proceedings.

2. Make or submit any oral or written motions to the Court on behalf of the PIWD Plaintiffs, as well as oppose, when necessary, any motions submitted by Defendant involving matters

1 within the Lead Counsel's sphere of responsibilities (except as to matters specifically directed to
2 individual Plaintiffs and their counsel).

3 3. Negotiate and enter into stipulations with the Defendant regarding the litigation. All
4 stipulations entered into by Lead Counsel, except for strictly administrative details such as scheduling,
5 must be submitted for Court approval and will not be binding until the Court has ratified the stipulation.
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7 4. Chair the Executive Committee.

8 5. Convene meetings of the Executive Committee for the purpose of proposing joint
9 action and discussing and resolving matters of common concern.

10 6. Coordinate discovery on behalf of the PIWD Plaintiffs consistent with the requirements
11 of Fed. R. Civ. P. 26 and in conjunction with the Executive Committee and Steering Committee.

12 7. Consult with and employ expert witnesses on behalf of the PIWD Plaintiffs consistent
13 with the requirements of Fed. R. Civ. P. 26 and in conjunction with the Executive Committee and
14 Steering Committee.
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16 8. Delegate specific tasks to other counsel or designated committees, in a manner that
17 ensures that the PIWD Plaintiffs' pretrial preparation is conducted effectively, efficiently, and
18 economically. Monitor the activities of co-counsel to ensure that schedules are met and unnecessary
19 expenditures of time and funds are avoided.
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21 9. Explore, develop, and pursue all settlement options pertaining to any claim or portion
22 thereof in any case filed in this litigation.

23 10. Attend status and case management conferences, including preconference meetings
24 with the Court and opposing counsel.

25 11. Ensure that court orders are followed, schedules are met, discovery is conducted
26 consistent with the requirements of Fed. R. Civ. P. 26, unnecessary expenditures of time and funds are
27 avoided, and any negotiations are reasonably efficient and productive.
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1 12. Perform any task necessary to carry out the functions of Lead Counsel to properly
2 coordinate the Plaintiffs' pretrial activities.

3 13. Perform any other functions as may be expressly authorized and/or required by this
4 Court.

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6 **II. PIWD Plaintiffs' JCCP-MDL Liaison Counsel**

7 A. **Appointment.** Anya Fuchs of Pearce Lewis LLP shall serve as PIWD Plaintiffs'
8 JCCP-MDL Liaison Counsel.

9 B. **Responsibilities of JCCP-MDL Liaison Counsel.** Ms. Fuchs, as JCCP-MDL Liaison
10 Counsel, shall have the following responsibilities:

11 1. Serve as an ambassador amongst and between the members of Plaintiffs' JCCP
12 leadership and the members of Plaintiffs' MDL leadership for the purpose and objective of aligning
13 and guiding the group towards making decisions with both coordinated proceedings in mind and, when
14 appropriate and desirable, to correlate and combine efforts to preclude duplicative work product that
15 will result in unnecessary costs and an undue consumption of time.

16 2. Propose, when appropriate, that efforts in one coordinated proceeding be adopted or
17 utilized in the other coordinated proceeding. By way of example, JCCP-MDL Liaison Counsel could
18 propose the same Plaintiff Fact Sheet be employed in both proceedings (as has already occurred), that
19 the same or similar offensive discovery be employed in both proceedings (substantively and
20 procedurally), that depositions of Defendant's executives that are taken in one coordinated proceeding
21 be available for use in the other coordinated proceeding, that documents and other information
22 produced in one coordinated proceeding be available for use in the other coordinated proceeding.

23 3. Provide periodic reports regarding the status of the JCCP to PIWD Plaintiffs' MDL
24 leadership and to this Court and, likewise, provide periodic reports regarding the status of the MDL to
25 Plaintiffs' JCCP leadership and the presiding Judge of JCCP No. 5305.
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1 4. Attend and participate in Executive Committee meetings with PIWD Co-Lead Counsel.

2 **III. PIWD Plaintiffs' Executive Committee**

3 A. **Appointment.** Cameron Bell of Oliver Law Group P.C., Eli J. Hare of Dicello Levitt
4 LLP, Michael K. Johnson of Johnson Becker PLLC, Lowell P. McKelvey of McKelvey Law LLC,
5 and Megan L. Roper of Bailey Cowan Heckaman PLLC shall serve as PIWD Plaintiffs' Executive
6 Committee.

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8 B. **Responsibilities of PIWD Plaintiffs Executive Committee.** Messrs. Bell, Hare,
9 Johnson, McKelvey, and Ms. Roper, as members of PIWD Plaintiffs Executive Committee, shall have
10 the following responsibilities:

11 1. Coordinate and oversee the activities of PIWD Plaintiffs' counsel during these
12 consolidated pretrial proceedings, as well as monitor and ensure that work conducted by PIWD
13 Plaintiffs' counsel is reasonably necessary and avoids unnecessary costs and duplication of effort.

14 2. Determine (after consultation with the Steering Committee and other plaintiffs'
15 counsel, as appropriate) the PIWD Plaintiffs' position on all matters arising during pretrial
16 proceedings.

17 3. Coordinate the selection and management of any common issue and/or bellwether
18 discovery and trials.

19 4. Schedule meetings of counsel for PIWD Plaintiffs, committees, and subcommittees for
20 any appropriate purpose, including coordinating responses to questions of other parties or of the Court.
21 Maintain minutes or transcripts of these meetings.

22 5. Maintain adequate time and disbursement records covering common benefit work of
23 designated counsel and establish guidelines, for approval by the Court, as to the keeping of time
24 records and expenses.
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6. Perform any other task deemed necessary and proper for the Executive Committee to accomplish its responsibilities as defined by the Court’s orders.

7. Attend and participate in Executive Committee meetings with PIWD Co-Lead Counsel.

IV. PIWD Plaintiffs’ Steering Committee

A. **Appointment.** Matthew K. Felty of Lytle Soule & Felty P.C., Aaron M. Heckaman of Bailey Cowan Heckaman PLLC, Michael M. Gallagher Morgan & Morgan, and Hayden N. Wyatt of Bailey Cowan Heckaman PLLC shall serve as PIWD Plaintiffs Steering Committee.

B. **Responsibilities of PIWD Plaintiffs Steering Committee.** Messrs. Felty, Heckaman, Gallagher, and Wyatt, as members of PIWD Plaintiffs Steering Committee, shall have the following responsibilities:

1. Initiate, coordinate, and conduct all pretrial discovery on behalf and for the benefit of all Plaintiffs in the actions consolidated in this MDL.

2. Develop and propose schedules for the initiation, conduct, and completion of all discovery on behalf of all Plaintiffs.

3. Cause to be issued in the name of all PIWD Plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly prepare for the pretrial discovery of relevant issues found in the pleadings of this litigation.

4. Schedule meetings of counsel for PIWD Plaintiffs for any appropriate purpose, including coordinating responses to questions of other parties or of the Court. Maintain minutes or transcripts of these meetings.

5. Prepare periodic status reports summarizing the Steering Committee’s work and progress. These reports must be submitted to Co-Lead Counsel and the Executive Committee.

6. Assemble and prepare “trial packages” that can be used in future cases, including cases that are remanded to transferor courts for trial.

1 7. Perform any other task deemed necessary and proper for the Steering Committee to
2 accomplish its responsibilities as defined by the Court's orders.
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4 Dated: _____
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6 Honorable Beth Labson Freeman
7 UNITED STATES DISTRICT JUDGE
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